IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.61 of 2006

AND

CHAMBER SUMMONS NO.416 OF 2006
IN
ARBITRATION PETITION NO.61 of 2006

M/s.Shaikh Construction. ...Petitioner

vs.

Hamoobai daughter of Haji Ali Mohamed
Hajee Cassum Agboatwala & others. ...Respondent.

Mr.Pradeep Sancheti i/b. Mrs.Meena Fulbandhe, for the Petitioner.

Mr.M.S.Singhvi i/b. Desai & Diwanji, for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 4th April, 2006.

P.C.:-

1. By consent of the parties, the Award made by the Learned Sole Arbitrator impugned in the Petition, is set aside. By consent of the parties, the dispute between the parties, in relation to which the Award was made by the learned Arbitrator, which is challenged in the present petition is referred to Hon'ble Mr.Justice A.N.Mody (Retired).

2. By consent of parties, it is directed that the learned Arbitrator shall consider the material already produced by the parties on record.

3. Parties shall not be permitted to produce any additional evidence. The learned Arbitrator shall hear the parties and make the Award.

4. The learned Arbitrator is requested to make the Award as expeditiously as possible, considering that the dispute between the parties is going on for a very long time.

5. It is made clear that both the parties have given their consent for setting aside the Award subject to their rights to initiate proceedings against each other on the ground that they have violated an order in force made by this Court.

6. During the pendency of the arbitration proceedings and for a period of four weeks after the Award is made and published by the learned Arbitrator, the parties shall maintain status quo as of 9th April,1999 in respect of the suit properties. Both the parties agree and undertake to this Hon'ble Court not to dispose of, alienate, encumber

or create any third party rights in the said suit properties described in Exhibit “A” to the plaint in Suit no.1965 of 1999.

7. Both the parties undertake to this Hon'ble Court that during the pendency of the arbitration proceedings and for a period of four weeks after the date the Award is made and published by the learned Arbitrator, the petitioner shall not settle or compromise or withdraw any of the suits and/or proceedings without giving prior adequate notice in writing to the Respondents and without obtaining leave of the learned Arbitrator. Similarly, the parties hereto also undertake to this Hon'ble Court that they will not receive any amount from the Defendants and the Respondents and/or any third parties in connection with the said suits proceedings described in Exhibit “A” annexed to the Consent Terms and Order both dated 6th May,1999 in Suit no.1965 of 1999. The suit proceedings described in Exhibit “A” shall stand stayed during the pendency of the arbitration proceedings and for a period of four weeks thereafter.

The petition is disposed of.

In view of the aforesaid order passed in the petition, the chamber summons no.416 of 2006 does not survive for consideration. Hence, disposed of.

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